

benefit of it, unless he could specifically enjoy it. *Fells v. Read*, 3 Ves. 71; *Lady Arundell v. Phipps*, 10 Ves. 148.

Looking to the general reasoning and principles of those various cases in which the English Court of Chancery interposes for the preservation of property, the right to which is in litigation, it does indeed seem strange, that it has so pertinaciously refused an injunction to prevent irreparable mischief, and to put a stop to the further commission of waste upon real estate during the continuance of an action at law to try the right. It is admitted, that there is no good reason why the Court should not interfere in such cases. Should it turn out, that the defendant had an unquestionable title, then the granting of such an injunction could only operate temporarily and partially to the prejudice of the free

580 * exercise of his right of property. But on the other hand, if it should be eventually shewn, that the plaintiff had the title, then, as the injunction turns no one out of possession, nor displaces anything, it must necessarily leave to the defendant the advantage of fighting the plaintiff with his own property. Upon which, had not the injunction been granted, the most irretrievable destruction might have been perpetrated; acts of waste might have been committed which would deprive the plaintiff of the very substance of his inheritance; mischief might have been done which it would require years to repair; and things might have been torn away or destroyed which it would be difficult or impossible to restore in kind; such as the buildings, fixtures, trees, or other peculiarities about the estate, which a multitude of associated recollections had rendered precious to their owner; but, as a compensation for the loss of which a jury would not give one cent beyond their mere value. A man has a right to secure to himself a property even in his amusements; and, it is not fit in any such cases to cast it to the estimation of people, who may have not the least sympathy with the feelings of the owner, to set a value upon his privileges or his property. *Fells v. Read*, 3 Ves. 70; *Smith v. Collyer*, 8 Ves. 89; *Berkely v. Brymer*, 9 Ves. 356; *Lady Arundell v. Phipps*, 10 Ves. 148; *Courthope v. Mapplesden*, 10 Ves. 291; *Louther v. Lord Louther*, 13 Ves. 95; *Crockford v. Alexander*, 15 Ves. 138; *Earl Cowper v. Baker*, 17 Ves. 128; *Astley v. Weldon*, 2 Bos. & Pul. 351; *Kimpton v. Eve*, 2 Ves. & Bea. 349.

The High Court of Chancery of Maryland has from the beginning, or certainly for a great length of time past, in this respect, acted more in harmony with its general principles, than the Court of Chancery of England, by interposing to prevent waste and destruction in all cases, during the continuance of a suit in which the title to the property has been, or may be brought in question; as well where the subject of litigation was real estate, as where it was mere perishable personalty, or money, or *choses in action* in the hands of the defendant. A similar and equally extensive